



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

ENVIRONMENT, FISH AND WILDLIFE

March 28, 2002

In reply refer to: KEC-4

Mr. P. Arley Harrel  
Williams, Kastner & Gibbs PLLC  
P.O. Box 21926  
601 Union Street, Suite 4100  
Seattle, WA 98111-3926

Dear Mr. Harrel:

On March 15, 2002, BPA provided you with a partial response to your amended Freedom of Information Act (FOIA) request of February 12, 2002 (#02-014). At that time, BPA did not complete its response to your request items 1 and 2. This letter completes BPA's response, in which the following items were requested:

1. With respect to the Environmental Impact Statement (EIS) for the Schultz-Hanford project, please provide all documents relating to or explaining the reason for the "small potential reroute within Segment A, referred to on Map 2, Alternatives, and shown in detail on Map 3, Reroute in Segment A," which is discussed at page 2-2, paragraph 2.1.1 of the EIS (hereinafter "Segment A Reroute").

RESPONSE: Documents determined to be appropriate for release are attached and labeled as Item 1. However, BPA has determined that the remainder of the documents it reviewed in response to this request should be withheld under 5 USC § 552(b)(5) (Exemption 5) of the FOIA, as explained below. The records being withheld are more particularly described in the enclosed Appendix A. The documents do not simply recite facts and do not contain any reasonably segregable, non-exempt material.

BPA asserts the deliberative process privilege for these documents. The documents being withheld were created by BPA employees. None of these internal documents have been released to the Tribes or outside the agency. These documents reflect BPA's deliberative process and do not contain material reflecting a final decision made by BPA. BPA is in the process of negotiations with the Yakama Tribes regarding the possibility of acquiring easements for a proposed route on an upcoming transmission line project. Disclosure of the withheld information would expose BPA's decision-making process in a way that discourages candid discussion within the agency. The documents reflect staff opinions and recommendations concerning issues associated with the acquisition of potential easements for a transmission line project. Disclosure of the withheld materials at this point in time, particularly during the process

of continuing negotiations, could confuse and mislead the public about agency decisions that have not yet been made and ultimately may not be presented or be adopted.

2. Please provide all documents relating to any environmental study, survey or other analysis of the Segment A Reroute.

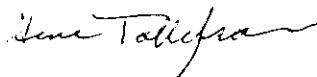
RESPONSE: See response to item 1, above. BPA has located e-mails in response to this request number also apply to Request 1, and are more specifically described in Appendix A. These documents are being withheld pursuant to exemption 5 of the FOIA, as explained above.

As stated in your letter dated February 12, 2002, you assured BPA of your willingness to pay reasonable costs as required by FOIA and to pay for the cost to copy above referenced materials. You requested an estimate for copying if BPA thought the cost would exceed \$200.00. Although the final fees have not been calculated, BPA does not believe copying will substantially exceed \$200.00. You will receive an invoice under separate cover from our Accounting Department for the cost of processing your request.

If you are dissatisfied with this determination, you may make an appeal within thirty (30) calendar days from the date of your receipt of this letter to Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW, Washington D.C. 20585. Both the envelope and the letter must be clearly marked "Freedom of Information Act Appeal."

If you have any questions, please contact John Gleason, at (503) 230-7318.

Sincerely,



Gene Tollefson  
Freedom of Information Act Officer

Enclosures

bcc: w/enclosures  
N. Wittpenn – KEC-4  
G. Tollefson-CILR-4  
Official File – CILR (EX 13-13, 02-14)

bcc: w/o enclosures  
L. Driessen-TNP-TPP-3  
C. Jacobson-LC-7  
J. Gleason-LC-7  
J. Bennett-LC-7

## **Appendix A**

### **Index of Withheld Documents**

1. Internal BPA meeting notes prepared by BPA employee entitled "TBL Executive Meeting," dated August 13, 2001. (Responds to request items 1 and 2)

This document was prepared by BPA staff for the purpose of briefing BPA management on issues of concern dealing with the potential acquisition of land.

2. Internal e-mails dated December 11, 2001 through December 12, 2001 between various BPA employees entitled "Public Involvement Team Meeting: Schultz-Hanford." (Responds to request item 1)

These internal e-mails were created and transmitted between BPA employees. The e-mails brief BPA staff and management on the progress and status to date of various issues associated with tribal allotments for a potential easement.

3. Internal e-mails dated February 14, 2002, between various BPA employees entitled "Tribal tract on Schultz-Wautoma." (Responds to request items 1 and 2).

These e-mails contains internal staff comments and discussion regarding a proposed upcoming meeting with allottees to discuss BPA's proposed project/easement. Discusses potential options for purchase.

4. Internal e-mail dated September 20, 2001, to BPA employees Paula Campbell and Sandra Rapozo from BPA employee John Cowger entitled "Yakama Nation R/W." (Responds to request items 1 & 2)

This e-mail contains a staff discussion of options for potential negotiation positions and strategy relating to right-of-way easement renewal issues.

5. Internal e-mails dated May 8, 2001, between various BPA employees entitled "Yakima Tribal Work." (Responds to request item 1)

Contains staff discussions and recommendations relating to various options relating to negotiation and acquisition of proposed easements.

6. Internal e-mails dated June 6, 2001, between various BPA employees entitled "John Day-McNary: Yakima Tribal Work." (Responds to request item 1)

Contains staff comments and recommendations discussing negotiation strategies for concerning proposed acquisition of easements.

7. Internal e-mail to BPA employee John Cowger from BPA employee Sandra Rapozo dated October 15, 2001, entitled "Yakama Nation." (Responds to request item 1)

Contains staff comments and opinions to supervisor on proposed acquisition of easement with Yakama Tribes.

8. Internal e-mail from Lou Driessen to various BPA employees dated November 26, 2001, entitled "Schultz – Wautoma PEP—ACCESS DENIED" (Responds to request items 1 and 2)

Contains staff comments and opinions on how to best approach landowner concerns concerning potential route for transmission line.